



**REPORT TITLE:** Report by the Monitoring Officer on an Investigation by the Local Government and Social Care Ombudsman into a complaint about Gloucestershire County Council

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| <b>Cabinet Date</b>                | 10 <sup>th</sup> November 2021   |
| <b>Cabinet Member</b>              | N/A<br>Report being brought by:<br>Rob Ayliffe, Monitoring Officer<br>Sarah Scott, Executive Director of Adult Social Care and Public Health   |
| <b>Key Decision</b>                | No   |
| <b>Purpose of Report</b>           | To advise Cabinet of a finding of maladministration and injustice by the Local Government and Social Care Ombudsman (LGSCO) and to recommend the actions the Council needs to take in response.  |
| <b>Recommendations</b>             | That the Cabinet:<br><ol style="list-style-type: none"><li>1. Accepts in full the LGSCO's recommendations as set out in sections 13 and 14 of this report;</li><li>2. Supports and endorses the actions identified by the Executive Director of Adult Social Care and Public Health as set out in paragraphs 15 to 23 of this report.</li><li>3. Meets the LGSCO's requirement to prepare a report setting out its response by sending to all County Councillors a copy of this report and of the minutes of the Cabinet meeting at which it is discussed.</li></ol> |
| <b>Reasons for recommendations</b> | To ensure that the LGSCO's recommendations are acted upon, and that lessons are learnt to ensure that a similar injustice does not occur again.  |
| <b>Resource Implications</b>       | The LGSCO report recommends that the Council makes payments totalling £2,350 to the service user and her former carer to reflect the injustice caused to each of them. These payments will be made from existing budgets.<br><br>As the wider changes needed have either already been made, or are underway, there are no additional resource implications associated with these.  |

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| <b>Background Documents</b>     | Local Government and Social Care Ombudsman Report: Investigation into a complaint about Gloucestershire County Council (reference number: 19014556). A copy of the report can be found at <a href="https://www.lgo.org.uk/decisions/adult-care-services/domiciliary-care/19-014-556">https://www.lgo.org.uk/decisions/adult-care-services/domiciliary-care/19-014-556</a>  |   |
| <b>Statutory Authority</b>      | This is a formal report by the Monitoring Officer issued under Section 5a of the Local Government and Housing Act 1989   |   |
| <b>Divisional Councillor(s)</b> | N/A  |   |
| <b>Officers</b>                 | Name: Rob Ayliffe<br>Tel: 01452 328506<br>Email: <a href="mailto:rob.ayliffe@gloucestershire.gov.uk">rob.ayliffe@gloucestershire.gov.uk</a>  | Name: Sarah Scott<br>Tel: 01452 328497<br>Email: <a href="mailto:sarah.l.scott@gloucestershire.gov.uk">sarah.l.scott@gloucestershire.gov.uk</a> |
| <b>Timeline</b>                 | In accordance with para 146 of the LGSCO report, The Council must consider the report and confirm within three months (i.e. 27 <sup>th</sup> January) the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and the LGSCO will require evidence of this. ( <i>Local Government Act 1974, section 31(2), as amended.</i> ) |   |

## **Background**

1. This is a statutory report issued by the Monitoring Officer under Section 5A of the Local Government and Housing Act 1989, which sets out certain circumstances under which the Monitoring Officer is required to issue a report to the Executive.
2. In this case, a Section 5A report is required as a result of the Local Government and Social Care Ombudsman (LGSCO) having issued a public interest report, finding the Council at fault of maladministration causing injustice. The purpose of such a report is to ensure that the findings of the LGSCO are brought to the attention of the Cabinet, reflecting the seriousness of a formal finding of maladministration and injustice and for Cabinet to put its full support behind fulfilling the recommendations as quickly as possible.
3. The LGSCO report concerns a complaint brought by an individual receiving adult social care services, referred to throughout this report as Miss X. Miss X has severe disabilities that mean she needs significant support in meeting her care needs.
4. In view of its subject matter, this report has been co-authored with the Executive Director of Adult Social Care and Public Health.
5. In order to remedy the injustice caused, the LGSCO makes a number of recommendations to the Council that are fully supported in this report to the Cabinet.
6. As soon as practicable after consideration of this report, the executive is required to prepare a report which sets out:
  - What action, if any, the Executive has taken in response to the report
  - What action, if any, the Executive proposes to take and when, and
  - The reasons for taking the action specified, or for taking no action.
7. The report of the Executive must be sent to all County Councillors and to the Monitoring Officer as soon as practicable and no later than 3 months of the publication date (so by 27<sup>th</sup> January 2022).
8. It is suggested that the most appropriate means of meeting that requirement is to send to all County Councillors and the Monitoring Officer a copy of this report and of the minutes of the Cabinet meeting at which it is considered.
9. The Council is also required by the LGSCO to place two public notice announcements in local newspapers and/or newspaper websites to publicise its report and to make copies of it available free of charge at the Council's offices.

## **The LGSCO's findings and recommendations**

10. The LGSCO's report contains some difficult messages for the Council. It is clear that, on this occasion, the Council failed to meet the standards that individuals that receive adult social care services expect of us, and missed opportunities to put things right at an earlier stage.

11. The LGSCO's investigation concluded that the Council failed Miss X in a number of ways, including:
- Failing to ensure that her eligible care needs were met at home, causing avoidable, undue significant distress, inconvenience and frustration;
  - Failing to carry out a carer's assessment, resulting in undue significant stress and frustration for her carer, and uncertainty for Miss X in how her needs would be met;
  - Failing to properly consider professional advice from Miss X's dietician and GP when producing her care plan;
  - Failing to assess Miss X's night-time needs, causing her unnecessary distress;
  - Failing to communicate effectively with Miss X or her advocate, causing uncertainty and contributing to distrust between her and the Council.
12. A summary of the LGSCO's decision is set out on their website at <https://www.lgo.org.uk/information-centre/news/2021/oct/council-fails-to-take-on-board-expert-advice-when-assessing-woman-s-care-needs>
13. The LGSCO recommends the following actions in order to remedy the Council's fault:
- a) To apologise in writing to Miss X for the injustice caused by the faults
  - b) To make a payment to Miss X of £2050 to reflect the injustice caused
  - c) To apologise in writing to Miss X's former carer
  - d) To make a payment of £300 to Miss X's former carer to reflect the injustice caused.
14. The LGSCO also recommends the following service improvements:
- e) To remind staff of the likely requirement to reassess someone's care needs when their circumstances change or deteriorate, in line with the Care Act
  - f) To remind staff that they must consider medical evidence / opinion in line with the Care Act
  - g) To ensure that the Council is able to access records of carers' assessments carried out by contracted services (in this case, Gloucestershire Carers Hub)
  - h) To remind staff to use carers' assessments in care and support plans in line with the Care Act, being particularly mindful of paragraph 6.65 of the guidance, which states "The intention of the whole family approach is for local authorities to take a holistic view of the person's needs and to identify how the adult's needs for care and support impact on family members or others in their support network."
  - i) To share the LGSCO's decision with relevant staff including management, and discusses the findings at appropriate team meetings.

### **The LGSCO's recommendations and actions taken to date**

15. The failings investigated by the LGSCO occurred between March and November 2019. As a result, some changes have already been made that have addressed the concerns raised by the LGSCO. The following section summarises the actions already taken and those that are still outstanding.
16. The County Council has written to Miss X and Miss X's former carer to apologise profusely for injustice and any distress caused by the lapses in the practice of the Adult Social Care team. The Council is, at the time of writing this report, in the process of

making the payments of £2050 to Miss X and £300 to Miss X's former carer as recommended by the LGSCO.

17. The Director of Adult Social Care Operations, together with the Head of Adult Social Care Operations has formally met with each of the Adult Social Care Operational teams and related members of management to brief them on the implications arising from the report and the training that will be delivered to their teams.
18. In order to implement the wider LGSCO recommendations outlined above, the Adults Principal Social Worker, in conjunction with an independent training consultant, has instigated a programme of mandatory Care Act refresher training sessions which were delivered to all Adult Social Work teams in Gloucestershire during the month of October 2021; two dates per team were provided to ensure all staff attended. The content of the training programme specifically reflected the practice areas identified by the LGSCO outlined above in paragraph 14, points e, f, h and i. The Adults Principal Social Worker has further provided additional practice guidance to support workers in taking a whole family approach in the course of their duties.
19. With respect to LGSCO's recommendation, stated above in paragraph 14.g, the contract for support to carers has since been recommissioned and now all statutory carers' assessments are sent to Gloucestershire County Council (GCC) and uploaded onto the client case management system (Liquid Logic, Adult System). Following this, Adult Social Care staff have full access to the information. Holistic assessments (those which are not undertaken on a statutory basis) are held by Gloucestershire Carers Hub (GCH) but GCC is classed as data controller in the contract to ensure that we have access to this data if required.
20. Since the period to which the complaint relates, Adult Social Care has been through a process of changing the way in which it engages with and provides support to the residents of Gloucestershire and their carers. We now take a strengths-based approach in practice and this in turn has led to differences in the way staff undertake their duties, are supported and supervised within their teams and more widely in their practice and development. This includes the following measures.
  - Within teams, staff work in smaller sub groups known as "hubs", each with a hub lead; this allows the work of each hub member to be known by others in the hub and ensures management oversight by the hub lead.
  - Each hub meets regularly during each week with their hub lead. These meetings provide the opportunity for members to discuss the people they are working with, share ideas, problem-solve, support and constructively challenge one another.
  - Practice Development Social Workers routinely join these hub discussions with a view to supporting staff in their practice, maintaining legal literacy.
  - Teams are structured to provide those staff who are responsible for carrying out assessments with access to Social Care Leads and Social Work leads, together with Senior Social Workers all working collaboratively to support and develop people's practice. Teams are led by Integrated Social Care Managers (ISCM's), supported by Deputy Social Care Managers (DSCM's).
  - Legal sessions are held monthly, enabling staff to pro-actively seek advice from the Adult Social Care Legal team. They also have access to urgent legal advice

separately as needed. Additional resources within the legal team are being considered as part of this year's Medium Term Financial Strategy.

- Members of the Adult Social Care management team meet with the Complaints team regularly to ensure any learning from complaints is captured and reflected in service delivery.
- An ISCM has been assigned lead responsibility for maintaining links with Carers services.
- A suite of training videos is available on Staffnet for staff to review and refresh their application of our "Make the Difference" strengths-based practice model.

21. In wishing to take the opportunity for learning from this decision further, the Directorate has taken the additional action of procuring an independent review of current Adult Social Care practice and processes pertaining to the assessment, review, reassessment and care and support planning for individuals and their carers.

22. We hope the review will confirm that these changes to practices and processes will reduce the risk of the practice faults identified by the LGSCO happening again. We also hope the independent review will identify the areas where practice is good, together with areas where further improvements may be needed. This review is being undertaken by an Adults' Principal Social Worker from a neighbouring authority, acting as an independent critical friend. We have asked them to complete a report of their findings and any recommendations in time for the Cabinet meeting on 10 November 2021 to allow Members to be further assured that Adult Social Care Services are taking all necessary steps to strengthen practice, where necessary. Implementation of any actions will be led by the Director of Adult Social Care Operations in conjunction with the Adults' Principal Social Worker and Head of Adult Social Care Operations.

23. While we deeply regret the Council's failure to provide Miss X and her former carer with the support they deserved and were entitled to, we believe that the change programme implemented over the last three years, along with the measures taken to implement the LGSCO's recommendations and any further action taken as a result of the independent review, mean that the standards of practice, supervision and accountability in place now would prevent a similar injustice from happening again.

## Options

24. Cabinet's options are:

- To accept and implement the LGSCO's recommendations in full. **This is the recommended option.**
- To reject the findings either in full or in part would miss the opportunity to make the necessary improvements to practice. It would also result in further action by the LGSCO and reputational damage to the Council. If the Council ultimately does not take satisfactory action it must publish a statement of non-compliance in a local newspaper explaining why it has refused to follow the LGSCO's recommendations.

## Risks

25. Failure to apply the lessons learnt from this investigation would result in individuals receiving Adult Social Care services being exposed to unnecessary risk of distress and potential harm. However, as this report shows, steps have already been taken to address the concerns this case raises. This, along with implementing the remaining recommendations, will reduce that risk.

### **Financial implications**

26. The LGSCO report recommends that the Council makes payments totalling £2,350 to the service user and her former carer to reflect the injustice caused to each of them. These payments will be made from existing budgets.

27. The independent review has been commissioned using existing budget resources, and any financial implications arising from its recommendations will be considered as part of the outcome of that review.

28. As the wider changes needed have either already been made, or are underway, there are no additional resource implications associated with these.

### **Climate change implications**

29. There are no climate change implications arising from this report.

### **Equality implications**

30. Has an Equalities Impact Assessment (EIA) been completed? No

31. As this is a statutory report in response to the findings of the LGSCO, no equality impact assessment has been prepared.

### **Data Protection Impact Assessment (DPIA) implications**

32. The LGSCO recommends that the Council ensures that it is able to access records of carer's assessments carried out by contracted services. The necessary arrangements have been made to ensure that the necessary contracts and agreements are in place to facilitate this data sharing and to ensure that appropriate governance is in place. Further detail can be found in paragraph 17.

### **Social value implications**

33. There are no social value implications directly arising from this report.

### **Consultation feedback**

34. As required by law, the Monitoring Officer has consulted the Chief Executive as Head of Paid Service and the Chief Finance Officer on its content.

### **Officer recommendations**

35. That the Cabinet:

1. Accepts in full the LGSCO's recommendations as set out in sections 13 and 14 of this report;
2. Supports and endorses the actions identified by the Executive Director of Adult Social Care and Public Health as set out in paragraphs 15 to 23 of this report.

### **Performance management/follow-up**

36. It is recommended that progress in delivering the outstanding actions, including any arising from the Independent Review, is reported to the Cabinet Members for Adult Social Care Commissioning and Adult Social Care Delivery and to the Adult Social Care and Communities Scrutiny Committee within 6 months and until such a time as the actions are completed.
37. Any decisions arising from the Independent Review will be taken in line with the Council's constitution.